

US EPA ARCHIVE DOCUMENT



THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

March 24, 1995

The Honorable Carol M. Browner
Administrator
Environmental Protection Agency
401 M Street, SW
Washington, DC 20450

Dear Ms. Browner:

Enclosed are the Department of Transportation's (DOT) final environmental justice strategy and the report requested on our efforts to implement Executive Order 12898. The committee reviewing agency strategies urged us to streamline and consolidate the final strategy document, so it is considerably shorter than the prior version.

I trust you will find DOT's final strategy acceptable. If members of your staff have any questions about it, please call either Joseph Canny, Deputy Assistant Secretary for Transportation Policy (366-4540), or Antonio J. Califa, Director, Departmental Office of Civil Rights (366-4648).

Sincerely,

A handwritten signature in cursive script, reading "Federico Peña", is written over a horizontal line.

Federico Peña

Enclosures

DEPARTMENT OF TRANSPORTATION (DOT) ACTIVITIES
TO IMPLEMENT EXECUTIVE ORDER 12898

Internal Administrative Process to Implement Executive Order
12898

Upon receipt of Executive Order 12898 and the accompanying Presidential Memorandum, DOT established a Department-wide working group which is comprised of representatives from appropriate Secretarial offices and departmental operating administrations. Consistent with the intent of the E.O. to emphasize civil rights in environmental protection, each modal administration designated representatives from its environmental planning and civil rights offices. The DOT working group established the overall framework for the development of the Department's environmental justice strategy, and, over the course of the past eight months, provided much of the information incorporated in the Department's strategy.

The working group's first major activity was to undertake a survey of DOT's current and proposed activities related to environmental justice. Results of this activity were forwarded to the Environmental Protection Agency (EPA) on July 13, 1994. Elements of the Department that participated in this activity are using the results to determine the extent to which environmental justice considerations are being met within DOT or are yet to be addressed.

The Department is developing an internal order to provide guidance to be followed by all appropriate elements of the Department in implementing Executive Order 12898. The order will apply to all appropriate Departmental regulations, policies, guidance documents, and program activities, as well as to any program, project, or activity undertaken by DOT or that receives financial assistance or permits from DOT, which may have environmental justice implications. The order will ensure that all appropriate components of the Department will apply the environmental justice strategy to all aspects of their programs, policies, and activities in a manner that integrates environmental justice considerations into existing agency operations rather than creating a separate set of requirements.

The order is being drafted to achieve three objectives. First, it would require review and revision, as needed, of DOT regulations, programs, policies, guidance documents, and procedures that affect human health or the environment, consistent with Executive Order 12898. Second, it would provide guidance in identifying adverse effects of DOT actions and in determining whether such actions are likely to have a disproportionately high and adverse human health or environmental impacts on low-income or minority populations. Third, it would outline a process to guide recipients of DOT funds in demonstrating compliance with Executive Order 12898, under existing environmental and civil rights laws. DOT will seek public comment on the draft order prior to its promulgation. The order will be ready for public review in draft form by May 5, 1995.

An overview of activities to develop the Department of Transportation's environmental justice strategy was an agenda item at senior-level staff meetings in mid-December 1994 and on March 8, 1995. During these meetings, the Secretary of Transportation, Federico Peña, emphasized his commitment to comply with Executive Order 12898 and instructed senior-level staff to support departmental activities to comply with it.

List of Programs, Policies, Planning Processes that Should be Revised

The Department's Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) are already reviewing their National Environmental Policy Act regulations in light of environmental concerns.

DOT's Public Participation Process

FHWA sponsored a National Conference on Integrating Environmental Concerns into Transportation Planning, held October 25-27, 1994. Environmental justice was one of the topics addressed during the conference.

In November 1994, FHWA issued an environmental policy statement. The statement explicitly highlights FHWA's

commitment to the principles of environmental justice. The document was distributed throughout the transportation community and to members of the public.

FTA co-sponsored with the Surface Transportation Policy Project a National Conference on Transportation, Social Equity, and Environmental Justice in Chicago, Illinois on November 17-18, 1994. The conference brought together approximately 150 persons, mostly community activists from around the country, with operating administration and Office of the Secretary of Transportation representatives and other public officials. The discussions identified key transportation-related environmental and social issues of concern to persons living in predominately low-income and minority communities. Suggestions for actions to redress these concerns were also sought and offered.

On December 12, 1994, Dr. Robert Bullard of Clark-Atlanta University made a presentation on environmental justice at an FHWA Colloquium on the "Social Costs of Transportation."

On January 20, 1995, DOT participated, along with other Federal departments/agencies, in a public meeting in Atlanta, Georgia, a portion of which was televised nationwide by satellite to designated downlink sites. The purpose of this public meeting was to provide an opportunity for Federal agency staffs to explain the main tenets of agencies' environmental justice strategies, and to raise issues for the consideration and advice of participants.

Staff from FHWA organized and participated in a Transportation Research Board Conference Session on Environmental Justice in Transportation in January 1995. Other speakers included Deeohn Ferris of Alliance for the Washington Office on Environmental Justice, Joseph Springer of DeLeuw Cather, and Michelle DePass of the New York City Environmental Justice Alliance.

On February 21, 1995, DOT published its draft environmental justice strategy in the *Federal Register* with a request for comments. In addition, the Department mailed approximately 3,000 copies of its draft strategy to a variety of public

agencies, individuals, and organizations having an interest in environmental justice. The Department received approximately 50 comments on the draft strategy.

Additional public participation activities anticipated include a conference on environmental justice to be sponsored by several DOT elements in cooperation with the Environmental Justice Resource Center at Clark-Atlanta University, tentatively scheduled for May 11-13, 1995; one or more meetings with environmental justice stakeholders; several grass roots environmental justice meetings; a national meeting on public participation and environmental justice; and regional workshops for recipients of DOT funds and state and local officials. Further, the Department anticipates conducting training and information outreach workshops for low-income and/or minority communities on participating in DOT-supported programs. DOT intends to develop and disseminate user-friendly materials explaining DOT's public participation and other program requirements. This may include environmental justice information on public participation and other pertinent program requirements put on a community bulletin board or a 1-800 number to answer environmental justice questions. DOT will seek low-income and minority views in deciding these matters.

Enforcement of Environmental and Health Statutes; Processes for Health and Environmental Research; Processes for Data Collection and Analysis; and Processes for Identifying Differential Patterns of Subsistence Use of Natural Resources

The departmental order on environmental justice will define how departmental elements should incorporate data collection and research in activities to comply with Executive Order 12898. The order will state that the Secretary and each operating administration in the Department should be utilizing existing authority in the National Environmental Policy Act, Title VI, the Uniform Relocation Act and other statutes, regulations, and guidance. These authorities all concern planning, socioeconomic or environmental matters, public health or welfare, public involvement, or related

matters and set out an established process and methodology for identifying: (1) adverse impacts; (2) mitigation and enhancement measures; and, (3) disproportionately high and adverse human health or environmental effects on minority or low-income populations.

Specific Model Projects Established After February 24, 1994.

DOT's Federal Transit Administration has established a "Livable Communities" initiative that supports the principles of environmental justice by promoting community partnerships in local neighborhood and community transportation decisionmaking and by creating transit investments that will serve community goals, including environmental, land use and human health objectives. For example, the Spanish Speaking Unity Council in Oakland CA prompted a major change in the Bay Area Rapid Transit District's (BART) land use development plan at the BART Fruitvale station. Because of active Fruitvale community involvement in project design, a "transit village" concept was adopted. This village concept includes a unique combination of needed community services and shopping opportunities. This will include a child care center, neighborhood health clinic, a public library, senior citizen housing and a police substation. This redevelopment enterprise built around a transit station will help to revitalize a low-income, minority community with new business and employment opportunities.

DEPARTMENT OF TRANSPORTATION ENVIRONMENTAL JUSTICE STRATEGY

INTRODUCTION:

This strategy is issued in response to Executive Order 12898, signed by President Clinton on February 11, 1994, on "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." This strategy sets forth the Department of Transportation's (DOT) approach to implementing E.O. 12898 in all relevant programs and activities sponsored, supported and undertaken by the Department. The Executive Order requires each Federal agency to develop a specific agency-wide strategy for implementing its provisions. The thrust of the Executive Order is to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of each agency's programs, policies, and activities on minority populations and low-income populations.

The strategy contains the Department's commitment to certain principles of environmental justice embodied in the Secretary's Strategic Plan, and identifies actions the Department intends to take to implement Executive Order 12898. The strategy is published as a final document; however, it should be viewed as a living document that may be adjusted periodically in response to insights acquired while implementing its various provisions. DOT plans further opportunity for public comments on its strategy and implementing actions.

DOT is committed to embracing the objectives of Executive Order 12898 by promoting enforcement of all applicable planning and environmental regulations and legislation, and by promoting non-discrimination in its programs, policies and activities that affect human health and the environment, consistent with Executive Order 12898, and Title VI of the Civil Rights Act of 1964. DOT is also committed to bringing government decisionmaking closer to the communities and people affected by these decisions and ensuring opportunities for greater public participation in decisions relating to human health and the environment.

Many of the objectives of the E.O. are embodied in the missions, goals, and objectives of the Secretary's Strategic Plan and are briefly summarized as follows:

- Improve the environment and public health and safety in the transportation of people and goods, and the development and maintenance of transportation systems and services.
- Harmonize transportation policies and investments with environmental concerns, reflecting an appropriate consideration of economic and social interests.

- Consider the interests, issues, and contributions of affected communities, disclose appropriate information, and give communities an opportunity to be involved in decisionmaking.

The Department will implement the E.O. by integrating its provisions into existing DOT programs, policies, activities, regulations, and guidance to the greatest extent possible.

Development of the DOT Strategy

1. Secretary's Directive

Upon receipt of the Executive Order and the accompanying Presidential Memorandum, Secretary Peña established a Department-wide working group and directed the development of a Department-wide strategy.

During senior level staff meetings in December 1994 and March 1995, Secretary Peña emphasized his commitment to comply with Executive Order 12898 and instructed senior level staff to support the executive order and encouraged them to incorporate the principles of environmental justice in program planning, budgeting, program development, program activities, and program evaluation, as appropriate.

In a recent memorandum to Secretarial offices and operating administrations,* Secretary Peña stated his strong personal endorsement of their efforts to carry out the responsibilities set out in the Department's Environmental Justice Strategy in an effective and timely manner.

a. National Conference on Transportation, Social Equity, and Environmental Justice in Chicago.

This conference, cosponsored by the Federal Transit Administration and the Surface Transportation Policy Project, brought together approximately 150 persons, mostly community activists from around the country, with DOT and other public officials. The meeting, held on November 17-18, 1994, in Chicago identified key transportation-related environmental and social issues of concern to persons living in predominately low-income and minority communities. Suggestions for actions to redress these concerns were also sought.

*Operating administrations, a.k.a. modal administrations, include: The United States Coast Guard, the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, the National Highway Traffic Safety Administration, the Federal Transit Administration, the St. Lawrence Seaway Development Corporation, the Maritime Administration and Research and Special Programs Administration.

b. Inter-departmental Public Meeting in Atlanta

On January 20, 1995, DOT participated, along with other Federal departments/agencies, in a public meeting in Atlanta to solicit comments on environmental justice issues as they relate to Federal Government programs. A portion of the meeting was televised nationwide by satellite to designated downlink sites.

c. Federal Register Notice

DOT published its proposed strategy in the *Federal Register* on February 21, 1995, with a request for comment. In addition, the Department mailed approximately 3,000 copies of the document to Departmental constituent groups and representatives of the environmental justice community. Based on comments received, DOT modified its strategy and streamlined its description in this document.

Elements of the DOT Strategy

1. Public Outreach on Implementation of the Environmental Justice Strategy

DOT plans, and will review with environmental justice stakeholders, its plans for the following activities: (1) grass roots meetings to better understand community-based environmental justice concerns and to provide training on the transportation decisionmaking processes; (2) a secretarial level meeting of experts, traditional DOT stakeholders and environmental justice representatives to recommend specific policies and actions to implement Executive Order 12898 and the Department's Environmental Justice Strategy; and (3) regional workshops for state and local officials on implementing the Strategy.

2. DOT Order on Environmental Justice

A key component of the DOT Environmental Justice Strategy is a proposed DOT Order providing guidance to be followed by the Department and its operating administrations to implement Executive Order 12898. The DOT Order will apply to all appropriate DOT regulations, policies, guidance, and program activities as well as to any program, project, or activity undertaken by DOT or that receives financial assistance or permits from DOT, which may have environmental justice implications. The proposed DOT Order would ensure that all appropriate components of the Department will apply this strategy to appropriate aspects of their programs, policies, and activities in a way that integrates environmental justice considerations into existing agency operations rather than creating a separate set of requirements.

While the precise contents of the proposed DOT Order have not yet been fully developed, the Department anticipates that the Order will achieve several objectives. First, under the proposed Order, the Office of the Secretary and operating administrations of DOT would review their regulations, programs, policies, guidance, and procedures that affect human health or the environment to identify those that should be revised and revise them, as appropriate, to comply with Executive Order 12898. This review will include, but not be limited to, regulations, programs, policies, guidance, and procedures related to short and long-range planning and programming, the National Environmental Policy Act (NEPA), pollution prevention, worker safety, environmental compliance, hazardous materials transportation, research, data collection, training, public participation, and relocation.

Second, the proposed DOT Order would set forth guidance to be used by DOT, its operating administrations, the recipients of DOT financial assistance, and state and local officials to determine whether a DOT or a DOT-funded program, policy, project, or activity (DOT action) is likely to have a disproportionately high and adverse human health or environmental effects on low-income or minority populations. As part of this process, DOT, its operating administrations, and recipients of Federal financial assistance will provide appropriate and meaningful opportunities for comment by representatives of affected communities.

Third, under the proposed DOT Order, DOT would develop potential strategies and measures to address, as appropriate, disproportionately high and adverse effects of their actions and those of recipients of DOT funds, consistent with requirements of other statutes and procedures. These measures may include pollution prevention, and health and safety measures, as well as mitigation and compensatory measures. This process would include procedures to provide meaningful opportunities for public involvement by low-income and minority populations, including community input in identifying potential mitigation measures for DOT actions.

The proposed DOT Order also would provide for data collection or research as needed to provide information to comply with Executive Order 12898. Public input will be solicited regarding these activities.

The DOT Order will provide guidance on how to achieve compliance with Executive Order 12898 under existing environmental and civil rights laws in cases where disproportionate impacts have been identified. The DOT Order will be ready for public review in draft form on May 5, 1995.

3. DOT Training on Environmental Justice

In order to ensure that DOT managers are fully aware of their responsibilities under Executive Order 12898 and pre-existing statutory mandates, DOT will hold information seminars on environmental justice for selected program managers throughout the Department. Representatives of the environmental justice community will be consulted in the planning of these seminars.

In addition, in keeping with the Department's philosophy of integrating environmental justice considerations into all appropriate departmental programs and activities, DOT operating administrations will review and modify existing training courses to ensure adequate coverage of environmental justice principles and to use training examples that include environmental justice aspects. These courses include such subjects as compliance with environmental mandates, infrastructure planning and development, public involvement, and management of departmental facilities and resources. The audience for these training courses includes DOT employees and recipients of DOT funding.

Role of Key DOT Elements in Complying with Environmental Justice Executive Order

Each element of the Department will undertake specific actions needed to implement the DOT Order on environmental justice. The actions undertaken will be developed and refined as the Department's strategy evolves. The following organizations will have key roles to play in the implementation process:

a. Assistant Secretary for Transportation Policy

The Office of the Assistant Secretary for Transportation Policy maintains liaison with various elements of the Department in an effort to ensure that each appropriate element examines its programs and activities and takes appropriate actions to comply with Executive Order 12898. This office is also responsible for monitoring implementation of the DOT environmental justice strategy to help keep the strategy relevant and foster consistency and comprehensiveness in complying with the principles embodied in the Executive Order. In addition, the office will work to keep high-level Departmental officials properly involved in achieving the strategy's objectives and in maintaining liaison with non-DOT departments and agencies as well as the environmental justice community.

The Department will review and update, as appropriate, its Procedures for Considering Environmental Impacts, DOT Order 5610.1C, to ensure that it is consistent with Executive Order 12898 and DOT's proposed order on environmental justice. Attachment 2 to Order 5610.1C sets forth

guidance on the format and content of environmental review documents and compliance with the National Environmental Policy Act and other environmental statutes, regulations, and executive orders, such as Section 4(f) of the DOT Act (49 U.S.C. 303). This attachment will be updated to reflect the requirements of Executive Order 12898 and to outline the need to address potential disproportionately high and adverse health, or environmental impacts on affected populations and communities. DOT operating administrations also will review and update their own environmental guidance.

b. Departmental Office of Civil Rights

Executive Order 12898 and the accompanying Presidential Memorandum underscore certain provisions of existing laws that can be used to ensure that all persons live in a safe and healthy environment. The Memorandum focuses on Title VI of the Civil Rights Act, which provides that programs and activities of recipients of Federal financial assistance may not discriminate based on race, color, or national origin. The proposed DOT Order described above will provide the operating administrations with a framework to ensure that their policies, programs, and procedures comply with the intent of the Executive Order, including meeting the requirements of Title VI.

In addition, the Departmental Office of Civil Rights will provide leadership and technical assistance to the operating administrations and to major recipients of DOT funds in the administration of their Title VI responsibilities which relate to environmental justice. This may take the form of guidelines, memoranda of general applicability, and training designed to achieve environmental justice for members of minority populations.

c. Operating Administrations

DOT and its operating administrations will review the allocation of education and research funds to historically black colleges and universities and other minority institutions and minority students and faculty in light of E.O. 12898. In addition, DOT will review its research programs to determine whether and how minority and low-income populations may be more appropriately included in the scope of particular research projects. Improved outreach to affected populations will be developed.

Each operating administration will implement the DOT strategy, including public outreach, the DOT Order on environmental justice, and training. Each operating administration will continue to cooperate in these matters with the Departmental Office of Civil Rights and the Assistant Secretary for Transportation Policy.